Text of Court Order Regarding Reimbursement for Inpatient Pathology Services

On June 1, 1999, the AHCCCS Administration published the following Policy Statement in "Claims Clues," the agency's newsletter:

In accordance with Medicare guidelines, physicians may bill only a limited number of CPT Codes for pathology services performed in a hospital setting. AHCCCS follows Medicare Guidelines and will only pay physicians and other individual practitioners for the medical interpretation of a pathology test performed at a hospital. AHCCCS does not reimburse physicians for the technical portion of tests performed at a hospital or for any indirect costs, such as supervising the laboratory.

This policy is also contained in the AHCCCS Fee-For-Service Provider Manual.

On March 7, 2000, the Governor's Regulatory Review Council issued a decision that this AHCCCS Policy Statement is an invalid rule. AHCCCS, however, continued to enforce this policy under its interpretation of A.R.S. §36-2918, a statute that prohibits claims for services that are not provided as claimed. AHCCCS contended that pathologists' claims for "hands off" or indirect services, such as medical direction and supervision of the hospital laboratory, do not constitute professional services provided as claimed.

The Arizona Society of Pathologists sued the AHCCCS Administration and Phyllis Biedess to enforce the Decision of the Governor's Regulatory Review Council.

Following a decision by the Arizona Court of Appeals, the Superior Court in Maricopa County entered Final Judgment on October 9, 2002, in favor of the Arizona Society of Pathologists. The terms of the Final Judgment, with which AHCCCS *must* fully comply, are:

IT IS HEREBY ORDERED that this Policy Statement, and any related agency policies and practices in implementation thereof, are illegal and unenforceable by defendants in any manner whatsoever.

IT IS FURTHER ORDERED that plaintiffs' practice of billing for indirect services (or "professional component billing") whereby pathologists bill a nominal fixed fee for each laboratory test, regardless of the amount of time a pathologist devotes to a particular test, is an appropriate billing practice, coverage of which is not prohibited by A.R.S. §36-2918.

IT IS FURTHER ORDERED that defendants shall pay pathologists for properly submitted claims for such indirect pathology services unless and until such time that the agency properly promulgates a rule barring such coverage, or the agency identifies an existing statute or rule that specifically disallows coverage for such services.

IT IS FURTHER ORDERED that defendants shall amend forthwith all agency publications, policies, and practices that are inconsistent with this Final Judgment, to conform with this Final Judgment.

IT IS FURTHER ORDERED that defendants shall not deny any pathologists' claims for indirect services on the basis of the timeliness of submitting such claims, for any claims from June 1, 1999 to the present, provided such claims are submitted within six (6) months from the date of entry of this Final Judgment.

On January 13, 2003, the Court further ordered that AHCCCS *must* demonstrate full compliance with the terms of the Final Judgment no later than February 10, 2003, which compliance must include at least the following:

- All necessary revisions to all agency provider manuals, newsletters, claims edits and fee schedules.
- Publication of this notice. Pathologists may submit claims from past years as well as for ongoing services, and pathologists may submit claims for past services within six months from the date on which this Court determines that the defendants are in full compliance with the Final Judgment.

Providers are hereby notified that pathologists may submit their claims for the professional component of clinical laboratory services, and AHCCCS must process these claims consistent with the terms of the Final Judgment. This includes claims for such "hands-off" or indirect services as were in dispute. This also includes claims from previous years, as well as for ongoing services.